



Senate

File No. 781

General Assembly

January Session, 2003

(Reprint of File No. 584)

Substitute Senate Bill No. 904
As Amended by House
Amendment Schedule "A"

Approved by the Legislative Commissioner
May 29, 2003

AN ACT CONCERNING WRITS BROUGHT TO AND ISSUED BY THE SUPREME COURT.

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 51-199 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) The Supreme Court shall have final and conclusive jurisdiction
4 of all matters brought before it according to law, and may carry into
5 execution all its judgments and decrees and institute rules of practice
6 and procedure as to matters before it.

7 (b) The following matters shall be taken directly to the Supreme
8 Court: (1) Any matter brought pursuant to the original jurisdiction of
9 the Supreme Court under section 2 of article sixteen of the
10 amendments to the Constitution; (2) an appeal in any matter where the
11 Superior Court declares invalid a state statute or a provision of the
12 state Constitution; (3) an appeal in any criminal action involving a
13 conviction for a capital felony, class A felony, or other felony,
14 including any persistent offender status, for which the maximum

15 sentence which may be imposed exceeds twenty years; (4) review of a
16 sentence of death pursuant to section 53a-46b; (5) any election or
17 primary dispute brought to the Supreme Court pursuant to section 9-
18 323 or [section] 9-325; (6) an appeal of any reprimand or censure of a
19 probate judge [.] pursuant to section 45a-65; (7) any matter regarding
20 judicial removal or suspension pursuant to section 51-51j; (8) an appeal
21 of any decision of the Judicial Review Council pursuant to section 51-
22 51r; (9) any matter brought to the Supreme Court pursuant to section
23 52-265a; (10) writs of error; [., pursuant to section 52-272;] and (11) any
24 other matter as provided by law.

25 (c) The Supreme Court may transfer to itself a cause in the Appellate
26 Court. Except for any matter brought pursuant to its original
27 jurisdiction under section 2 of article sixteen of the amendments to the
28 Constitution, the Supreme Court may transfer a cause or class of
29 causes from itself, including any cause or class of causes pending on
30 July 1, 1983, to the Appellate Court. The court to which a cause is
31 transferred has jurisdiction.

32 (d) The Supreme Court may issue all writs necessary or appropriate
33 in aid of its jurisdiction and agreeable to the usages and principles of
34 law.

35 Sec. 2. Section 51-274 of the general statutes is repealed and the
36 following is substituted in lieu thereof (*Effective from passage*):

37 All special acts or provisions thereof inconsistent with this chapter
38 and with sections 1-1a, 2-5, 2-40, 2-61, 3-84, 5-164, 5-189, 7-80, 8-12, 9-
39 63, 9-258, 9-368, 12-154, 14-141, 14-142, 18-65, 18-73, 19a-220, 21a-96, 29-
40 13, 29-362, 30-105, 30-107, 30-111, 35-22, 46b-120, 46b-133, 46b-160, 47a-
41 23, 47a-28, 47a-35, 47a-37, 49-61, 49-62, 51-6a, 51-9, 51-15, 51-27, 51-30,
42 51-33, 51-34, 51-36, 51-48, 51-49, 51-50, 51-51, 51-52, 51-59, 51-72, 51-73,
43 51-78, 51-95, 51-183b, 51-183d, 51-183f, 51-183g, 51-215a, 51-229, 51-232,
44 51-237 [.] and 51-241, [51-243(a),] subsection (a) of section 51-243 and
45 sections 51-247, 51-347, 52-45a, 52-45b, 52-46, 52-97, 52-112, 52-139, 52-
46 193, 52-194, 52-196, 52-209, 52-212, 52-215, 52-226, 52-240, 52-257, 52-

47 258, 52-261, 52-263, 52-268, 52-270, [52-272,] 52-278i, 52-293, 52-297, 52-
48 298, 52-324, 52-351, 52-397, 52-425, 52-427, 52-428, 52-521, 53-308, 53-
49 328, 54-2a, 54-56f, 54-66, 54-72, 54-74, 54-82g, 54-82j, 54-82k, 54-95a, 54-
50 96a, 54-96b, 54-97, 54-108, 54-154, 54-166 and 54-169 to 54-174,
51 inclusive, are repealed.

52 Sec. 3. (*Effective from passage*) Sections 52-272, 52-273, 52-275, 52-276,
53 52-277 and 52-278 of the general statutes are repealed.

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Judicial Dept.	GF - None	None	None

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill specifies that the Supreme Court may issue all writs necessary or appropriate to aid its jurisdiction. There is no related fiscal impact.

House Amendment "A" eliminates the bill's provision specifying that a municipal police officer or other law enforcement officer may initiate a proceeding in Superior Court to require an employer to indemnify the officer for losses sustained when criminal charges are brought against the officer for offenses allegedly committed while on duty, and are dismissed, or the officer is found not guilty. There is no fiscal impact associated with this change.

OLR Bill Analysis

sSB 904 (as amended by House "A")*

**AN ACT CONCERNING WRITS BROUGHT TO AND ISSUED BY
THE SUPREME COURT AND INDEMNIFICATION OF POLICE
OFFICERS**

SUMMARY:

This bill specifies that the Supreme Court may issue all writs necessary or appropriate to aid its jurisdiction. It eliminates several statutory rules about the availability and applicability of a writ of error.

The law, unchanged by the bill, authorizes Supreme Court judges to make necessary rules and orders for the practice and procedure of taking a writ of error. Court rules of appellate procedure adopted by the Supreme Court also govern writs of error, and the statutory provisions the bill eliminates are covered by these rules.

*House Amendment "A" eliminates a provision of the bill specifying that state and local police officers may initiate a proceeding in Superior Court against their employers to enforce the employer's statutory duty to indemnify them for losses they sustain when criminal charges brought against them for offenses allegedly committed while they were on duty were dismissed, or the officer or official was found not guilty.

EFFECTIVE DATE: Upon passage

BACKGROUND

Writ of Error

The writ of error allows a higher court to review and supervise actions of its lower courts. It fills procedural gaps that occasionally arise when a person affected by a lower court ruling lacks a statutory right of appeal. It is rooted in the common law and appears to reflect the Supreme Court's inherent authority (*Banks v. Thomas*, 241 Conn. 569 (1997); *Bergeron v. Mackler*, 225 Conn. 391 (1993)).

Related Cases. Although the legislature codified the right to bring a writ of error, the right exists independently of the statutory authorization (*State v. McCahill*, 261 Conn. 492 (2002)).

The state Supreme Court has construed the statutory requirement that writs of error be filed within two weeks of the judgment or order being challenged is discretionary and not mandatory (*Banks v. Thomas*, 241 Conn. 569 (1997)).

Related Laws. Supreme Court judges may make such rules and orders as they deem necessary for the practice and procedure in taking appeals and writs of error including the giving of security by the appealing party, the stay of execution during the pending of the appeal, and the payment of costs (CGS § 52-264). The judges of the Supreme, Appellate, and Superior courts may adopt rules and forms regulating pleading, practice, and procedure in judicial proceedings in courts in which they have a constitutional authority to make rules (CGS § 51-14).

The Appellate Court may issue all writs necessary or appropriate in aid of its jurisdiction and agreeable to the usages and principles of law (CGS § 51-197a(b)).

Related Rules. Supreme Court judges have adopted rules governing writs of error (Rules of Appellate Procedure §§ 72-1 to 72-4).

Related Case — Indemnification

The state Supreme Court recently held that CGS § 53-39a does not authorize state police officers to bring an indemnification lawsuit against the state because it does not explicitly waive the state's sovereign immunity (*Martinez v. Department of Public Safety* (263 Conn. 74, April 8, 2003)).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 41 Nay 0

